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PATENT APPLICATION

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ATTORNEY DOCKET NO. ___10004941-1___

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): David P. Ferguson

Application No.: 09/679,691

Filing Date: 10-5-00

Confirmation No.: 9007

Examiner: El Chanti

Group Art Unit: 2157

Title: Device Detection System and Method

Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on ___10-3-06___ .

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

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Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

David P. Ferguson

Serial No.: 09/679,691

Filed: October 5, 2000

For: **Device Detection System and Method**

Group Art Unit: 2157

Examiner: El Chanti

Docket No. 10004941-1

REPLY BRIEF RESPONSIVE TO EXAMINER'S ANSWER

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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

The Examiner's Answer mailed October 3, 2006 has been carefully considered. In response thereto, please consider the following remarks.

AUTHORIZATION TO DEBIT ACCOUNT

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account no. 08-2025.

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REMARKS

This Reply Brief is responsive to the second of two Examiner's Answers issued by the USPTO. Applicant will first provide a brief review as to why a second Examiner's Answer was issued.

In reviewing the first Examiner's Answer, Board of Appeals and Interferences ("the Board") noticed that the first Examiner's Answer contained references to U.S. Patent Number 6,101,55 and to U.S. Patent Number 6,473,783, both issued to Goshey et al. The references to both patents created confusion given that Applicant's claims were only rejected under one "Goshey" reference in a single rejection under 35 U.S.C. § 102(e). The Board therefore requested that the Examiner clarify which of the two patents was actually being relied upon in rejecting Applicant's claims. In response, the Examiner issued the outstanding second Examiner's Answer, which clarifies that Applicant's claims are rejected under U.S. Patent Number 6,101,555 ("Goshey '555").

After reviewing Goshey '555, Applicant has come to the conclusion that the disclosure contained in Goshey '555 is similar in several respects to that contained in the previously applied Goshey reference. In view of that, Applicant believes that Applicant's claims are allowable over Goshey '555 for similar reasons to those described in the Applicant's Appeal Brief. In the following, Applicant discusses the rejection under Goshey '555 and addresses the Examiner's arguments presented in the second Examiner's Answer.

I.   <u>Discussion of the Rejection Under Goshey '555</u>

Claims 1-38 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Number 6,101,555 to Goshey et al., hereafter referred to as "Goshey" or "Goshey '555" when also referring to the previously applied Goshey patent. Applicant respectfully traverses the rejection under 35 U.S.C. § 102.

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(e).

In the present case, not every feature of the claimed invention is represented in the Goshey reference. Applicant discusses the Goshey reference and Applicant's claims in the following.

A.   **The Goshey Disclosure**

Goshey discloses a method and apparatus for sharing peripheral devices over a network. As is described by Goshey, "Server ScanLAN" code is installed on a first computer 112b (the "server") and "Client ScanLAN" code is installed on a second computer 112d (the "client"). <u>Goshey</u>, column 5, lines 9-14. With that configuration, the client computer can access and use peripheral devices that are connected to the server . computer. <u>Goshey</u>, column 5, lines 1-6, lines 9-14.

Although Goshey discloses an "interrogator" 204 resident on the client computer that is configured to determine what peripheral devices are connected *to the client*

computer (Goshey, column 5, lines 39-44), Goshey does not disclose a program or other component that is configured to determine what peripheral devices are connected *to other computers.*

B.   Applicant's Claims

Goshey fails to explicitly teach several of Applicant's claim limitations. Applicant discusses some of those claim limitations in the following.

1.   Claims 1-10 and 35

Applicant's independent claim 1 provides as follows (emphasis added):

1.   A method for detecting devices connected to a network, comprising:
   sending a scan request to a remote command process running on a remote network host;
   scanning the network host with the remote command process to identify peripheral devices that are directly connected to the host; and
   receiving a response to the scan request from the remote command process that indicates what devices are connected to the network host.

(a)   "Sending a Scan Request"

As is apparent from the above claim, Applicant explicitly recites the action of "sending a scan request to a remote command process running on a remote network host". Simply stated, Goshey does not teach that action. Although, as mentioned above, Goshey does disclose use of an "interrogator" on a client computer to determine

what devices are connected to *that* computer, Goshey does not describe any interrogator or other tool that sends a request *to another computer to determine what peripheral devices are on that computer.*

In the second Examiner's Answer, the Examiner argues that Goshey teaches sending a scan request, and cites column 8, line 50 to column 9, line 61; column 5, line 35 to column 5, line 47; and column 6, lines 17-52 of the Goshey disclosure for support. Given that the Examiner has generally referred to large portions of the Goshey disclosure without identifying specific teachings contained in those portions, Applicant will not reproduce those portions of the Goshey reference in this Reply Brief. However, Applicant asserts that those portions of the Goshey reference clearly do *not* teach sending a scan request to a remote command process running on a remote network host and Applicant respectfully requests that the Board carefully review those portions of the Goshey reference to confirm that fact.

Instead of teaching sending a scan request to a remote command process running on a remote network host, Goshey describes a first computer using peripheral devices connected to another computer "as if they where connected to" the first computer. *Goshey*, column 5, lines 45-48. Missing, however, from the Goshey reference is an explanation as to *how* the devices are located by the first computer in the first place. Instead, knowledge of the peripheral devices by the first computer is simply presumed in the Goshey reference.

In view of the absence of an explanation as to how the available peripheral devices are found, it is clear that Goshey lacks the disclosure to anticipate Applicant's claim 1. Specifically, although Goshey discusses *use* of remote peripheral devices,

Goshey does not discuss the prior step of *discovering or detecting* those devices. As far as the reader knows, Goshey uses a manual process, such as that described in the Background section of Applicant's disclosure. As is stated in the Background section:

> Presently, the existence of such devices is determined *by manually scanning* each host of the network separately.

Applicant's specification, page 2, lines 2-3 (emphasis added). In other words, a user in Goshey's system may walk up to a first host, scan the host by running a program on the host (like Goshey's "interrogator 204"), manually record the information, move on to the next host, etc., until all hosts have been manually scanned and a complete list of all associated peripheral devices created. Applicant notes that the distinction between such a process and the process recited in claim 1 is significant. For example, assume a list of peripheral devices is manually created at the beginning of the year. If new peripheral devices are added to the hosts of the network later in the year, the list that was created will be out of date and will not reflect all of the available peripheral devices. The only way to ensure completeness of the list would be to continually, manually update the list. Applicant's invention, however, automates this discovery/detection process such that it is much easier to update the list of available devices, thereby enabling continual updating of the list and providing a significant advantage over manual processes.

Regardless of how Goshey's computers learn of the presence of peripheral devices connected to the other computers list, the fact remains that Goshey's disclosure is *silent* as to this aspect of his system. Because 35 U.S.C. § 102 requires

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that the applied reference *actually teach* each and every limitation of Applicant's claims, the Goshey reference clearly cannot be said to anticipate Applicant's claim 1.

(b)   Receiving a Response . . . That Indicates What Devices are Connected to the Network Host

Given that Goshey does not disclose sending a scan request for the purpose of discovering peripheral devices connected to a remote computer, it logically follows that Goshey also does not teach "receiving a response to the scan request" that "indicates what devices are connected to the network host" as is further required by claim 1. Claim 1 is therefore further allowable over the Goshey reference for that reason. Notably, although the "receiving" limitation recites "devices", it is clear from the claim as a whole that those devices are the peripheral devices identified in the performed "scanning".

(c)   Dependent Claims

From the above, it is clear that Goshey fails to teach explicit limitations contained in claim 1. Applicant further notes that Goshey fails to teach several explicit limitations found in Applicant's dependent claims. Applicant discusses some of those limitations in the following.

Regarding dependent claim 5, Goshey does not teach that scanning the network host with a remote command process comprises "receiving *device addresses* from the application program interface and *requesting information from the devices directly via the addresses*" (emphasis added). Although Figure 2D does, as noted by the

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Examiner, show a list of devices, Applicant notes that Figure 5 does not show "device address" at all. Furthermore, that figure, which comprises a mere table, does not disclose the *action* of receiving the device addresses from the application program interface and "requesting information from the devices directly via the addresses".

Regarding dependent claim 7, Goshey does not teach "consulting the list prior to sending the scan request". As described above, Goshey does not disclose "sending a scan request" that causes a computer to scan for peripheral devices. It logically follows that Goshey does not teach consulting a list "prior to sending the scan request".

Regarding dependent claims 8 and 9, Goshey further does not teach "sending multiple scan requests to multiple remote command processes running on network hosts" or "wherein the scan requests are sent in parallel". Once again, Goshey does not teach sending *any* scan requests, much less multiple scan requests to multiple remote processes. It logically follows then that Goshey does not teach sending those multiple scan requests "in parallel".

Regarding dependent claim 35, Goshey does not teach that identified peripherals in Goshey's method comprise at least one of "a disk drive, a tape drive, a tape library, and a modem". As for column 1, line 60 to column 2, line 2 of the Goshey disclosure, which was identified by the Examiner for support, that column describes the *prior art* and not Goshey's method.

2.   Claims 11-20 and 36

Applicant's independent claim 11 provides as follows (emphasis added):

11.   A device detection system for detecting devices connected to a network, comprising:

means for sending a scan request to a remote command process running on a remote network host;

means for scanning the network host with the remote command process to identify peripheral devices that are directly connected to the host; and

means for receiving a response to the scan request from the remote command process that indicates what devices are connected to the network host.

Regarding claim 11, Goshey does not teach "means for sending a scan request to a remote command process running on a remote network host" or "means for receiving a response to the scan request from the remote command process that indicates what devices are connected to the network host", at least for reasons described in above in relation to independent claim 1. For at least those reasons, claims 11-20 and 26 are allowable over Goshey.

Applicant further notes that Goshey fails to teach explicit limitations found in Applicant's dependent claims. For example, Goshey does not teach "means for receiving device addresses from the application program interface and requesting information from the devices directly via the addresses" for reasons described above in relation to claim 5.

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Regarding claim 17, Goshey does not teach "means for consulting the list prior to sending the scan request" for reasons described above in relation to claim 7.

Regarding claims 18 and 19, Goshey further does not teach "means for sending multiple scan requests to multiple remote command processes running on network hosts" or "wherein the scan requests are sent in parallel" for reasons described above in relation to claims 8 and 9.

Regarding claim 36, Goshey does not teach that identified peripherals comprise at least one of "a disk drive, a tape drive, a tape library, and a modem" for reasons described above in relation to claim 35.

3. Claims 21-30 and 37

Applicant's independent claim 21 provides as follows (emphasis added):

21. A device detection system for detecting devices connected to a network, comprising:

logic configured to send a scan request to a remote command process running on a remote network host;

logic configured to scan the network host with the remote command process to identify peripheral devices that are directly connected to the host; and

logic configured to receive a response to the scan request from the remote command process that indicates what devices are connected to the network host.

Regarding Goshey does not teach "logic configured to send a scan request to a remote command process running on a remote network host" or "logic configured to

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receive a response to the scan request from the remote command process that indicates what devices are connected to the network host", at least for reasons described above in relation to independent claim 1. For at least those reasons, claims 21-30 and 37 are allowable over Goshey.

Applicant further notes that Goshey fails to teach several explicit limitations found in Applicant's dependent claims. For example, Goshey does not teach "logic configured to receive device addresses from the application program interface and requesting information from the devices directly via the addresses" for reasons described above in relation to claim 5.

Regarding claim 27, Goshey does not teach "logic configured to consult the list prior to sending the scan request" for reasons described above in relation to claim 7.

Regarding claims 28 and 29, Goshey further does not teach "logic configured to send multiple scan requests to multiple remote command processes running on network hosts" or "wherein the scan requests are sent in parallel" for reasons described above in relation to claims 8 and 9.

Regarding claim 37, Goshey does not teach that identified peripherals comprise at least one of "a disk drive, a tape drive, a tape library, and a modem for reasons described above in relation to claim 35.

4.   Claims 31-34 and 38

Applicant's independent claim 31 provides as follows (emphasis added):

31.   A device detection system for remotely detecting devices connected to a network, comprising:

a *controller process running on a first network host*, the controller process *being configured to send a scan request to a remote network host*; and

a *remote command process running on a second network host*, the remote command process *being configured to receive the scan request sent by the controller process and initiate a scan of the second network host to identify peripheral devices that are directly connected to the second network host.*

Regarding claim 31, Goshey does not teach "a controller process running on a first network host . . . configured to send a scan request to a remote network host" or "a remote command process running on a second network host . . . configured to receive the scan request sent by the controller process and initiate a scan of the second network host to identify peripheral devices that are directly connected to the second network host" at least for reasons described above in relation to claim 1. At least for those reasons, claims 31-34 and 38 are allowable over Goshey.

Regarding claim 38, Goshey does not teach that identified peripherals comprise at least one of "a disk drive, a tape drive, a tape library, and a modem" for reasons described above in relation to claim 35.

C. Conclusion

Due to the clear shortcomings of the Goshey reference and the Examiner's failure to identify specific teachings of Goshey that disclose Applicant's claim limitations, Applicant respectfully requests that the rejection of the claims be reversed.

II. Discussion of the Examiner Arguments from Examiner's Answer

A. Determining What Peripheral Devices are Connected to Other Computers

The Examiner begins his discussion of Applicant's arguments by stating that Applicant argues that Goshey does not disclose a program or component that is configured to "determine" what peripheral devices are connected to other computers.

Applicant notes that the above is not an actual limitation from Applicant's claims. Therefore, Applicant declines to comment on the Examiner's argument.

B. Sending a Scan Request

The Examiner next argues that: "Goshey teaches the system and method where the client is capable of sending a 'get support info command'. In response to the request, a request is sent to the servers connected on the network to identify the host adapters *and the peripheral devices* connected to each of the servers" (emphasis added). *Second Examiner's Answer*, page 12. This is untrue.

As a first matter, Applicant notes that Goshey does not disclose a "get support info command" as suggested by the Examiner. Goshey does disclose a "get ASPI 32

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support info" function and a "get support info attachment" function. Applicant notes, however, that *neither* of those functions are described as being a scan request sent to a remote network host that causes the host to scan itself to identify connected peripheral devices. Regarding the "get ASPI 32 support info" function, Goshey states that that function is "used to find all local *host adapters* in which the WNASPI32.DLL engine 305 is executed." *Goshey*, column 8, lines 58-60 (emphasis added). Finding "host adapters" is not finding peripheral devices. Regarding the "get support info attachment" function, Goshey states that that function is "used to find all *host adapters* that are connected to a particular network." *Goshey*, column 9, lines 8-10. Applicant reiterates that finding "host adapters" is not finding peripheral devices. Therefore, contrary to that alleged by the Examiner, Goshey does not describe any "get" command used to cause host computers to determine what peripheral devices are connected the host computers.

The Examiner further argues that, after the peripheral devices are identified, Goshey's server computer "sends the client a list of the connected devices". This is also not true. Simply stated, Goshey's column 8, line 50 to column 9, line 61 and column 4, line 35 to column 5, line 5, which the Examiner cites for support, do not describe the action of the server computer sending a list of peripheral devices to the client computers. First, Goshey does not describe the server sending any "list" of devices to the client computes. Second, Applicant again notes that Goshey's disclosed "functions" pertain to finding Goshey's host adapters, not peripheral devices.

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C. Receiving a Response to the Scan Request

As noted above, Goshey does not teach sending a scan request or scanning performed in response to the request to discover what peripheral devices are connected to a host computer. It logically follows that Goshey does not anticipate receiving a response to such a scan request.

D. Receiving Device Addresses and Requesting Info Directly from the Devices

In regard to the limitation "receiving device addresses from the application program interface and requesting information from the devices directly via the addresses" the Examiner states:

> The local client receives a response from the scanLAN software installed on a remote computer where the list of devices are displayed to the client . . . The list of devices received are [sic] displayed to the user as shown in fig. 4D. Fig. 4D show [sic] the devices and device IDs of each device where the device ID represents the device address and therefore Goshey teaches requesting information from the devices directly via the addresses.

Second Examiner's Answer, page 13.

In reply, Applicant again notes that Goshey does not teach any device "addresses." Instead, devices are identified in Figure 4D by a given name, but no "addresses" are shown. Furthermore, Applicant questions how a mere "list of devices" shown in Figure 4D teaches the action of "requesting information" from the devices via their addresses. Applicant submits that the mere action of displaying a list to a client

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does not somehow include the action of "requesting information" from the devices. Therefore, Applicant maintains the argument that Goshey does not actually teach "receiving device addresses from the application program interface and requesting information from the devices directly via the addresses" as required by some of Applicant's claims.

E. Consulting a List Prior to Sending the Scan Request

As noted in the foregoing, given that the Goshey reference does not disclose sending a scan request, it logically follows that Goshey does not anticipate consulting a list "prior to sending the scan request" as required by some of Applicant's claims.

F. Sending Multiple Scan Requests in Parallel

In regard to the limitations "sending multiple scan requests to multiple remote command processes running on network hosts" and "wherein the scan requests are sent in parallel", the Examiner states:

> The system include [sic] plurality of hosts that operate independent of
> each other and the requests to identify the peripheral devices connected
> to each of the hosts sent from the same client are sent independent of
> each other . . . Therefore Goshey teaches sending multiple scan requests
> to multiple processes or wherein the scan requests are sent in parallel by
> sending from a client multiple independent requests to multiple hosts.
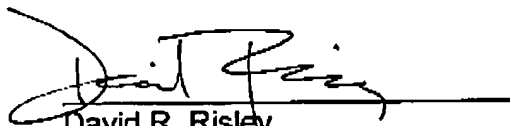
Second Examiner's Answer, page 14.

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As a first matter, Applicant reiterates that Goshey does not actually teach sending a scan request to any computer for the purpose of having the computer scan to for peripheral devices connected to the computer. Therefore, the argument that Goshey teaches sending multiple scan requests is unwarranted.

As a second matter, even if it were assumed that Goshey somehow taught sending multiple scan requests, Goshey certainly does not teach sending such requests "in parallel". Furthermore, Applicant notes that even if Goshey taught a plurality of hosts "that operate independent of each other" as suggested by the Examiner, such a teaching does not describe sending out "scan requests" "in parallel", i.e., at the same time.

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CONCLUSION

In summary, it is Applicant's position that Applicant's claims are patentable over the applied prior art references and that the rejection of these claims should be withdrawn. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow Applicant's pending claims.

Respectfully submitted,

David R. Risley
Registration No. 39,345

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I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted on the date indicated below via facsimile to the United States Patent and Trademark Office, facsimile number (571) 273-8300.

Date: _____10-3-06_____

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